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In the Matter of

Distribution of 1995, 1996, 1997  
and 1998 Digital Audio Recording Funds

Docket No. 99-3 CARP DD 95-98

## ORDER

As discussed with the parties during the conference call on January 28, 2000, the Library is identifying those arbitrators with potential conflicts of interest to serve in the above-captioned proceeding. As provided in section 251.32(b)(2) of the rules, and as agreed to by the parties, the parties are given until Friday, February 18, 2000, to identify whether each is willing to waive each of the listed potential conflicts. In addition, the parties are given until that day to file any written objections to arbitrators as provided in section 251.4 of the rules.<sup>1</sup> The list of arbitrators for service on a Copyright Arbitration Royalty Panel can be found at Volume 65 of the **Federal Register**, page 2439 (January 14, 2000).

### List of Potential Conflicts of Interest

The Library of Congress is complying with the provisions of § 252.32 by providing the attached list to the parties to the 1995-1998 DART royalty distribution. As provided in § 251.32(b)(2)(iii), the list does not contain the names of the affected arbitrators, but rather identifies the nature of the conflict of interest. The list is to be used by the parties to the DART distribution proceeding in formulating their objections to listed arbitrators as provided in § 251.4.

After the Library has received filings pursuant to §§ 251.4 and 251.32 from all parties to this proceeding, the Library shall proceed with the selection of arbitrators.

We have arranged the conflict of interest list in chart form to permit the parties to identify the nature of the conflicts for a particular arbitrator, and then provided space to allow them to indicate whether they would be willing to waive such a conflict. The Library listed all conflicts for a particular arbitrator, so the parties can evaluate the arbitrator as a single entity, instead of listing the conflicts independently and asking the parties to respond only to the identified conflict. The financial information provided by the arbitrators falls into four distinct categories: earned income, pre-employment income, unearned income and self-identified conflicts.

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<sup>1</sup> Section 251.4(b) of the rules states that any party may file an objection to one or more of the eligible arbitrators as long as said objection "plainly state[s] the grounds and reasons for each [arbitrator] claimed to be objectionable."

Earned income means all income received during the preceding 12 months derived as a result of employment or personal effort, including but not limited to the following: compensation for services, including fees, commissions and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; and distributive share of partnership income. The nature of the earned income is indicated for the preceding 12 months. The amount of the earned income is not included and was not provided to the Librarian as part of the financial disclosure statement.

Unearned income identifies the entities from which the listed arbitrators currently derive unearned income or in which they hold financial assets (stocks, etc.). Unearned income consists of rents, royalties, dividends, interest, capital gains, and similar amounts received as a return of investments. The amount and/or value of the unearned income and assets is not included and was not provided to the Librarian as a part of the financial disclosure statement.

Income derived from pre-employment identifies the entities by which listed arbitrators have been employed within the past 5 years. Employment includes any business relationship involving personal services including, but not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee. The value of the employment, its nature and extent are not identified and were not provided to the Librarian as part of the financial disclosure statement.

The self-identified category includes those entities which certain listed arbitrators identified as representing a potential conflict of interest. The financial disclosure statement completed by each listed arbitrator requested that they identify any entities which they knew would represent a conflict of interest in a CARP proceeding, and asked whether they would be willing to dispose of the financial interest and/or disclose it to the parties. However, those arbitrators willing to disclose these acknowledged conflicts were instructed not to dispose of these interests at this time.

Waiver of the conflict would enable the listed arbitrator with the conflict to remain eligible for selection in the DART distribution proceeding. The parties are not obligated to respond to the attached list, but all parties are encouraged to return it. The completed chart must be returned to the Copyright Office on or before February 18, 2000.

Wherefore, **IT IS ORDERED** that any party who wishes to file objections to any arbitrator, in accordance with 37 C.F.R. 251.4 and 37 C.F.R. 251.32, must do so on or before February 18, 2000.

**SO ORDERED.**

Marybeth Peters,  
Register of Copyrights.

**DATED:** January 31, 2000

BY: 

William J. Roberts, Jr.  
Senior Attorney

Name of Party: \_\_\_\_\_

**IDENTIFIED CONFLICTS  
FOR NOMINATED ARBITRATORS - 2000-2001**

**CONFLICTS**

**WILLING TO WAIVE CONFLICTS**

**Arbitrator #1:**

**YES**

**NO**

☐☐

- A.     Earned Income
- Brentwood Music, Inc.
  - Marty Robbins, Inc.
  - CBS Cable Inc./The Nashville Network
  - Integrity Inc. (Assn. of Gospel Administrators)
- B.     Pre-Employment
- Administrators of Gospel Music
  - Provident Music Group (including Brentwood-Benson Music Pub., Reunion Records, Celebration Hymnal)
  - David Dean
  - Country Music Television
  - Mojave Music
  - Gaylord Broadcasting
  - Elephant Ear Productions
  - Many other similar interests listed. If considering waiver of conflict, contact Office for complete list.

**Arbitrator #2:**

☐☐

- A.     Assets and Unearned Income
- Tony Renis Music Pub. Corp.
- B.     Pre-Employment
- Saban Entertainment (MP)<sup>2</sup>

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<sup>2</sup> The financial disclosure form asked the nominee to categorize, where possible, the entity listed in the earned income section. These abbreviations correspond to the following categories: B=Radio and/or TV Broadcaster, commercial or non-commercial; Mu=Musician; MP=Music Publisher or Motion Picture; MSS=Music Subscription Service; P=Performer; Pa=Parent Company of the Preceding Organizations; RC=Recording Company; TP=TV Production Company.

The revised form also requested information concerning the degree of investment in the identified entity.  
Dm = de minimis, 5% or less  
M = moderate, more than 5%, but less than or equal to 15%  
S = significant, more than 15%

## CONFLICTS

## WILLING TO WAIVE CONFLICTS

### Arbitrator #3:

YES

☐

NO

☐

- A. Earned Income
- I Music, Inc.
  - Johnny Mulhair (RC)
  - Eproject.com
  - Allegis Communications, Inc.
  - Around the World Yo Yo Enter.
- B. Assets & Unearned Income
- America Online
  - Comcast Corp.
  - General Electric
  - GTE
  - News Corp. Ltd.
  - Time Warner
  - Playmakers LLC
- C. Pre-Employment
- Sequoyah Films Inc.
  - IAM Online, Inc.
  - Central Dynasty Records, Inc.
  - The Bill Graham Companies
  - Pioneer Electronics Inc.
  - Haveson, Ryan aka Cat Daddy LLC
- D. Self-Identified Conflicts
- Comcast
  - Time Warner
  - News Corp.

### Arbitrator #4:

☐☐

- A. Earned Income
- Playboy Enterprises Inc. (Dm)
- B. Assets & Unearned Income
- Time Warner Inc.
  - Playboy Enterprises
  - Walt Disney Holdings

**CONFLICTS****WILLING TO WAIVE CONFLICTS****YES****NO**

- C. Pre-Employment
- Van Halen
  - Bertinelli Productions, Inc.
  - Greengage Productions, Inc.
  - Larry Harmon Pictures Corp.
  - Jennilind Productions, Inc.
  - Bob Barker Productions
  - Julie Andrews
  - Many other similar interests listed. If considering waiver of conflict, contact Office for complete list.

**Arbitrator #5:**☐☐

- A. Pre-Employment
- Gaylord Entertainment Co.

**Arbitrator #6:**☐☐

- A. Assets & Unearned Income
- During the past 12 months sold stock in:
    - GE
    - Disney

**Arbitrator #7:**☐☐

- A. Earned Income
- Numerous music and recording clients (Dm)
- B. Pre-Employment
- Numerous recording clients

**Arbitrator #8:**☐☐

- A. Earned Income
- Numerous entertainment clients (Dm)

**CONFLICTS****WILLING TO WAIVE CONFLICTS****Arbitrator #9:****YES****NO**☐☐**A. Assets & Unearned Income**

- AT&T Corp.
- Bell Atlantic
- Bell South
- Mediaone Group
- SBC Communications
- US West Inc.

**Arbitrator #10:**☐☐**A. Assets & Unearned Income**

- Capital Kids Radio Company
- Viacom
- New York Times
- Disney
- Tribune
- CBS

**Arbitrator #11:**☐☐**A. Assets & Unearned Income**

- Walt Disney Holding Co.
- MCI Worldcom Inc.
- Mediaone Group Inc.
- Minnesota Mining & MFG Co.
- SBC Communications Inc.
- Seligman Communications (sold)
- AT&T Corp. (sold)
- V-Dechert Price & Rhoads
- Edwards Scholarship Fund
- Prime Charter, Ltd.

**Arbitrator #12:**☐☐**A. Assets & Unearned Income**

- Disney Corp.

**CONFLICTS****WILLING TO WAIVE CONFLICTS****Arbitrator #13:****YES****NO**☐☐

- A. Assets & Unearned Income
- America Online Inc.
  - AT&T Corp.
  - Bell Atlantic Corp.
  - Bell South Corp. (sold)
  - Chesapeake & Potomac Telephone Co.
  - General Electric Capital Corp. Nts (sold)
  - MCI Worldcom Inc.
  - New York Tel. Debs.
  - Southwest Bell
  - Time Warner Inc.
  - US West Communications

**Arbitrator #14:**☐☐

- A. Assets & Unearned Income
- Bell South (as executor)

**Arbitrator #15:**☐☐

- A. Earned Income
- Practice includes intellectual property and entertainment/publishing law.

**Arbitrator #16:**☐☐

- A. Assets & Unearned Income
- G.E.
  - America Online
  - Time Warner
  - MCI Worldcom